

From: MARTIN & FERRARO, LLP (CA)

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08-11-07 02:48pm From:MARTIN & FERRARO LLP CA

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T-420 P.04/07 F-385

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PATENT  
Attorney Docket No. 101.0037-02000  
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Confirmation No.: 1889
Gary Karlin Michelson	)	Group Art Unit: 3772
Serial No.: 10/631,309	)	Examiner: Michael A. Brown
Filed: July 31, 2003	)	
For: METHOD FOR THE DELIVERY OF ELECTRICAL CURRENT TO PROMOTE BONE GROWTH BETWEEN ADJACENT BONE MASSES	)	

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

REPLY TO OFFICE ACTION

In reply to the Office Action dated May 30, 2007, the following remarks are submitted:

In the Office Action, the Examiner rejected claims 1-9, 11-17, 23-24, 26-31, 35-36, and 40-44 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 64-75, 99-104, and 123-128 of Applicant's U.S. Patent No. 6,120,502. Applicant is submitting concurrently with this Reply a Terminal Disclaimer disclaiming the terminal part of any patent granted in the present application which would extend beyond the expiration of U.S. Patent No. 6,120,502. Applicant submits that the Examiner's rejection of claims 1-9, 11-17, 23-24, 26-31, 35-36, and 40-44 under the judicially created doctrine of obviousness-type double patenting has been overcome.

The Examiner objected to claims 10, 18-22, 25, and 32-34 as being dependent upon a rejected base claim and indicated that these claims would be allowable if rewritten in independent format. Applicant submits that the objection is now moot because the double-patenting rejection of independent claim 1 and claims dependent therefrom has been overcome.

Reply to OA 08-11-07

PAGE 4/7 \* RCVD AT 6/11/2007 6:44:18 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-3/19 \* DNIS:2738300 \* CSID:3102862795 \* DURATION (mm:ss):02:30

06-11-07 02:45pm From:MARTIN &amp; FERRARO LLP CA

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In view of the foregoing remarks, it is respectfully submitted that claims 1-44 are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1088.

Respectfully submitted,

MARTIN & FERRARO, LLP

By: 

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Dated: June 11, 2007

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